IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

FRIDAY, THE 8TH DECEMBER 2006 / 17TH AGRAHAYANA 1928

WP(C).No. 14713 of 2006(B)

PETITIONER:

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1. **RADHAKRISHNAN NAIR A.,**
   TECHNICIAN GRADE II (REFRIGERATION), MILMA,
   PATHANAMTHITTA DAIRY, PATHANAMTHITTA.

2. **SHAJU S.M.,**
   TECHNICIAN GRADE II (REFRIGERATION), MILMA,
   MILK CHILLING PLANT, MANNAR, ALAPPUZHA DISTRICT.

3. **NIHAS G.,**
   TECHNICIAN GRADE II (GENERAL MECHANIC),
   MILMA, KOLLAM DAIRY, KOLLAM.

BY ADV. SRI.BABU JOSEPH KURUVATHAZHA
SRI.K.I.SAGEER

RESPONDENTS:

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1. **STATE OF KERALA,**
   REP. BY ITS SECRETARY TO GOVERNMENT,
   DEPT. OF AGRICULTURE, GOVT. SECRETARIAT,
   THIRUVANANTHAPURAM.

2. **THE DIRECTOR,**
   DEPT. OF DAIRY DEPARTMENT, THIRUVANANTHAPURAM.

3. **THE MANAGING DIRECTOR,**
   THIRUVANANTHAPURAM REGIONAL CO-OPERATIVE MILK
   PRODUCER'S UNION LTD. (MILMA), THIRUVANANTHAPURAM.

4. **THIRUVANANTHAPURAM REGIONAL CO-OPERATIVE**
   MILK PRODUCER'S UNION LTD. (MILMA),
   THIRUVANANTHAPURAM, REP. BY ITS MANAGING DIRECTOR.

BY ADV. SRI.B.S.KRISHNAN(SR.), SC, MILMA
SRI.K.ANAND (A.201)
SMT.LATHA KRISHNAN
GOVERNMENT PLEADER SRI.P.N.SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/12/2006, ALONG WITH WPC NO. 15770 OF 2006 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.14713/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE NOTIFICATION NO.TRU/PER/1/2005 DT.11.5.05 PUBLISHED BY THE 3RD RESPONDENT.

EXT.P2- COPY OF THE NOTICE NO.TRU/PER/1/2005 DT.10.10.05 ISSUED TO THE 1ST PETITIONER BY THE 3RD RESPONDENT.

EXT.P3:- COPY OF THE NOTICE NO.TRU/PER/1/2005 DT.10.10.05 ISSUED TO THE 3RD PETITIONER BY THE 3RD RESPONDENT.

EXT.P4:- COPY OF THE NOTICE NO.TRU/PER/1/05 DT.6.2.06 ISSUED TO THE 1ST PETITIONER BY THE 3RD RESPONDENT.

EXT.P5:- COPY OF THE NOTICE NO.TRU/PER/1/2005 DT.6.2.06 ISSUED TO THE 2ND PETITIONER BY THE 3RD RESPONDENT.

EXT.P6:- COPY OF THE NOTICE NO.TRU/PER/1/05 DT.6.2.06 ISSUED TO THE 3RD PETITIONER BY THE 3RD RESPONDENT.

EXT.P7:- COPY OF THE ORDER OF APPOINTMENT BEARING NO.TRU/PER/2/2006/1882 DT.27.4.06 ISSUED BY THE 3RD RESPONDENT.

EXT.P8:- COPY OF THE ORDER OF APPOINTMENT BEARING NO.TRU/PER/2/2006/1888DT.27.4.06 ISSUED BY THE 3RD RESPONDENT.

EXT.P9:- COPY OF THE ORDER OF APPOINTMENT BEARING NO.TRU/PER/2/06/1884 DT.27.4.06 ISSUED BY THE 3RD RESPONDENT.

EXT.P9(a):- COPY OF THE ORDER NO.QD/PD/EST-9/V-III/49 DT.2.5.06 ISSUED BY THE MANAGER , KOLLAM DAIRY.

EXT.P10:- COPY OF THE PAY SLIP EVIDENCING THE RECEIPT OF SALARY BY THE 1ST PETITIONER.

EXT.P11:- COPY OF THE PAY SLIP EVIDENCING THE RECEIPT OF SALARY BY THE 3RD PETITIONER.

EXT.P12:- COPY OF THE ORDER NO.C1/5401/06 DT.12.5.06 ISSUED BY THE 2ND RESPONDENT.

/TRUE COPY/

J.M.JAMES, J.

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W.P.(C) Nos. 14713/2006 and 15770/2006 (B)

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Dated this the 8th day of December, 2006

J U D G M E N T

Writ petitioners 1 to 3 in W.P.(C) No.14713/2006 had joined duty on 02/05/2006, 03/05/2006 and 03/05/2006, respectively, as II-Grade Technician (Refrigeration and General Mechanic), appointed by the Thiruvananthapuram Regional Co-operative Milk Producer's Union Ltd., in short 'MILMA'.

2. Writ petitioners 1 to 4 in W.P.(C) No.15770/2006 are rank holders 1 to 4, as per the list accepted by MILMA, in their resolution No.162, dated 08/03/2006, as Technician Grade-II (Electrician-General). Though, three persons, as stated above, have joined duty, the rank holders 1 to 4, could not join, as the Director, Dairy Development Department, Thiruvananthapuram, in short 'the Director', through his order dated 12/05/2006, temporarily set aside the list and further directed that anyone who were appointed by MILMA, should be removed from the post and the compliance be reported to the Director, within 10 days from the date of issue of the order. Therefore, through

these separate writ petitions, the writ petitioners came before this Court to quash the order dated 12/05/2006 of the Director.

3. I have heard the arguments advanced by the learned counsel for the writ petitioners, Mr.K.Anand for MILMA, the Senior Government Pleader for the State as well as the Director.

4. In the order dated 12/05/2006, the Director, had temporarily set aside the appointments made by MILMA on 18/02/2006, due to the improper conducting of the tests. It was also directed to remove the persons, who were already appointed. The order passed being temporary, the matter is still pending with the Director. The facts stated in the order dated 12/05/2006 of the Director, reveal some improprieties, in conducting the practical test and interview of the candidates, who have been selected and listed as per the rank, by MILMA. Therefore, it is within the competency of the Director of Dairy Development, to examine the matter fully and thoroughly and pass final orders.

5. There is a submission by the learned counsel for the writ petitioners in W.P.(C) No.15770/2006, that despite having placed in rank Nos. 1 to 4 of the list published by MILMA and the appointment of three other persons, from another category of the same list, without appointing of petitioners 1 to 4, is causing lot of heart-burn and discontentment among the writ petitioners. Therefore, the learned counsel prayed that the petitioners 1 to 4 may also be appointed, as that of writ petitioners in W.P.(C) No.14713/2006, and the writ petitioners 1 to 4 are prepared to abide by any decision that may be taken by the Director.

6. In the above facts situation, without entering into any discussions on the merit of the matter, I set aside the order No.C1/5401/2006, dated 12/05/2006 of the Director. The writ petitioners 1 to 4 in W.P.(C) No.15770/2006, shall be appointed within one week from the date of production of the copy of this judgment. The Director shall hear the writ petitioners in both the writ petitions, the Managing Director of MILMA and all others, those who are connected with this matter

and pass appropriate orders, within six weeks from the date of production of the judgment.

7. The appointment of the writ petitioners in both these writ petitions as well as the rank list prepared for appointment in MILMA, shall be subject to the consideration and final decision of the Director of Dairy Development Department, Thiruvananthapuram.

(J.M.JAMES)
Judge

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